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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

OCT - 5 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Eligibility for the Specialized)
Mobile Radio Services and)
Radio Services in the 220-222) GN Docket No. 94-90
MHz Land Mobile Band and Use)
of Radio Dispatch Communications)

COMMENTS OF SPRINT CORPORATION

Sprint Corporation ("Sprint"), on behalf of the United and Central Telephone companies, Sprint Communications Company L.P., and Sprint Cellular, respectfully submits these Comments in response to the Notice of Proposed Rule Making ("NPRM") released on August 11, 1994.

In the NPRM the Commission seeks comment on its tentative decision to eliminate the rule that prohibits wireline telephone common carriers that provide local exchange service from holding SMR licenses and commercial 220 MHz mobile radio services licenses. The Commission also proposes to eliminate the prohibition on the provision of dispatch service by cellular licensees and other Public Mobile Service licensees. Sprint supports the Commission's proposals.

The original purpose of the prohibition on wireline eligibility for SMR licenses and 220 MHz commercial licenses was to promote "competition in the fledgling SMR industry" and "to

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reduce incentives for wireline carriers to engage in discriminatory interconnection practices."¹ Much has changed since the adoption of these prohibitions.

In the 1993 Omnibus Budget Reconciliation Act ("Budget Act"), Congress established a new comprehensive framework for the regulation of all mobile radio services, one goal of which was to effect regulatory parity among all commercial mobile radio service ("CMRS") providers. Congress believed that regulatory parity was necessary because "the disparities in the current regulatory scheme could impede the continued growth and development of commercial mobile services. . . ."²

The Budget Act directed the Commission to establish regulations to ensure consistent regulatory treatment of CMRS providers; hence the Commission adopted rules that reclassified SMR and commercial 220 MHz licensees from private carrier status to common carrier status.³ The Budget Act also authorized the Commission to eliminate the common carrier dispatch ban.

Sprint strongly agrees with the Commission's proposal to eliminate both the prohibition on wireline carriers owning SMR

1. NPRM at para. 5. See also, para 6 wherein the Commission acknowledged that the ban on 220 MHz commercial licenses was imposed for the same reasons as the SMR prohibition.

2. P.L. 103-66, Omnibus Budget Reconciliation Act of 1993, House Report No. 103-111, May 25, 1993, H.R. Rep. 103-111, 103rd Cong. 1st Sess. 1993, 1993 WL 181528 (Leg.Hist.) at p. 546.

3. Second Report and Order, GN Docket No. 93-252, 9 FCC Rcd 1411 at paras. 90, 95 (1994) ("Second CMRS R&O").

and 220 MHz commercial licenses and the ban on cellular provision of dispatch service. This is an important component in realizing Congress's goal of regulatory parity. Furthermore, it will open the door to new entrants and increase competition which will result in new services and technological innovations.

Additionally, it is clear that the SMR and 220 MHz commercial radio service industry is no longer a "fledgling" industry. As the Commission notes, there are now at least 16 SMR companies that service more than 3,300 mobiles as compared to 1986 data that indicated that only one SMR provider served 3,300 mobiles.⁴ Confirmation of the industry's robustness was provided in the Commission's Further Forbearance docket⁵ by Nextel itself, the largest provider of ESMR services:

ESMR services, also known as wide-area SMR services, provide customers with mobile telephone, paging and dispatch services all in a single handset along with improved clarity and reception and a host of enhanced features.

Nextel's pioneering work in bringing ESMR service to the public provides the first real competitive choice in ten years to the duopoly cellular carriers. . . .⁶

4.

NPRM at fn. 9.

5. In the Matter of Further Forbearance from Title II Regulation for Certain Types of Commercial Mobile Radio Service Providers, GN Docket No. 94-33, Notice of Proposed Rule Making, FCC 94-101, released May 4, 1994. ("Further Forbearance")

6. Further Forbearance docket, Comments of Nextel Communications, Inc. ("Nextel") at p. 4.

Thus SMR providers can compete and are competing with cellular providers; they are providing customers with mobile telephone, paging, and dispatch services. Not only can SMR providers use their systems to provide cellular like services; they can also own cellular licenses. On the other hand, LECs cannot own SMR and 220 MHz licenses and cellular providers cannot provide dispatch. This disparate treatment is directly contrary to Congress's intent for regulatory parity.

Furthermore, any concerns over potential discriminatory interconnection practices by LECs have been mooted by the provisions of the Budget Act and the Commission's Second CMRS R&O that requires LECs to provide reasonable nondiscriminatory interconnection to all CMRS providers.⁷

Finally, the Commission's initial concerns over LEC discrimination and cross-subsidization have been satisfactorily addressed in the affiliate transaction and cost accounting rules adopted by the Commission subsequent to the imposition of the SMR, 220 MHz and dispatch services prohibitions.

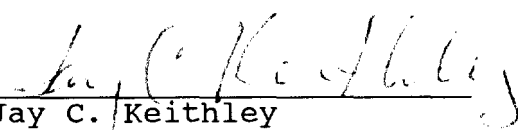
7. Second CMRS R&O at paras. 227-39.

In conclusion, Sprint supports the Commission's proposals and urges the Commission to eliminate the SMR, 220 MHz, and dispatch ownership prohibitions.

Respectfully submitted,

SPRINT CORPORATION

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October 5, 1994

CERTIFICATE OF SERVICE

I, Melinda L. Mills, hereby certify that I have on this 5th day of October, 1994, sent via U.S. First Class Mail, postage prepaid, or Hand Delivery, a copy of the foregoing "Comments of Sprint Cellular" in the Matter of Eligibility for the Specialized Mobile Radio Services in the 220-222 MHz Land Mobile Band and Use of Radio Dispatch Communications, GN Docket No. 94-90 filed this date with the Acting Secretary, Federal Communications Commission, to the persons on the attached service list.


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